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PART II — Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 7th December, 2004.

BILL NO. 96 OF 2004

A Bill to constitute a National Commission for Minority Educational Institutions and to provide for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Commission for Minority Educational Institutions Act, 2004.

Short title,
extent and
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 11th day of November, 2004.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "affiliation" together with its grammatical variations, includes, in relation to a college, recognition of such college by, association of such college with, and admission of such college to the privileges of, a Scheduled University;

(b) "college" means a college or teaching institution (other than a University) established or maintained by a person or group of persons from amongst a minority community;

(c) "Commission" means the National Commission for Minority Educational Institutions constituted under section 3;

(d) "degree" means any such degree as may, with previous approval of the Central Government, be specified in this behalf by the University Grants Commission, by notification in the Official Gazette;

(e) "Member" means a member of the Commission and includes the Chairperson;

(f) "minority", for the purpose of this Act, means a community notified as such by the Central Government;

(g) "Minority Educational Institution" means a college or institution (other than a University) established or maintained by a person or group of persons from amongst the minorities;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "qualification" means a degree or any other qualification awarded by a University;

(j) "Scheduled University" means a University specified in the Schedule;

(k) "technical education" has the meaning assigned to it in clause (g) of section 2 of the All India Council for Technical Education Act, 1987;

52 of 1987.

(l) "University" means a university defined under clause (f) of section 2 of the University Grants Commission Act, 1956, and includes an institution deemed to be a University under section 3 of that Act, or an institution specifically empowered by an Act of Parliament to confer or grant degrees.

3 of 1956.

CHAPTER II

THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS

Constitution
of National
Commission
for Minority
Educational
Institutions.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the National Commission for Minority Educational Institutions to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of a Chairperson and two members to be nominated by the Central Government.

Qualifications
for appointment
as
Chairperson or
other Member.

4. (1) A person shall not be qualified for appointment as the Chairperson unless he,—

(a) is a member of a minority community; and

(b) has been a Judge of a High Court.

(2) A person shall not be qualified for appointment as a Member unless he,—

(a) is a member of a minority community; and

(b) is a person of eminence, ability and integrity.

Term of office
and conditions
of service of
Chairperson
and Members.

5. (1) Every Member shall hold office for a term of five years from the date on which he assumes office.

(2) A Member may, by writing under his hand addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of Member at any time.

(3) The Central Government shall remove a person from the office of Member if that person—

- (a) becomes an undischarged insolvent;
- (b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude;
- (c) becomes of unsound mind and stands so declared by a competent court;
- (d) refuses to act or becomes incapable of acting;
- (e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or
- (f) in the opinion of the Central Government, has so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the public interest:

Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination and a person so nominated shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy had not arisen.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

6. (1) The Central Government shall provide the Commission with a Secretary and such other officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

Officers and other employees of Commission.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the Secretary, officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

Salaries and allowances to be paid out of grants.

7. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the Secretary, officers and other employees referred to in section 6, shall be paid out of the grants referred to in sub-section (1) of section 14.

Vacancies, etc., not to invalidate proceedings of Commission.

8. No act or proceeding of the commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Procedure to be regulated by Commission.

9. (1) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorised by the Secretary in this behalf.

CHAPTER III

RIGHT OF A MINORITY EDUCATIONAL INSTITUTION

10. Notwithstanding anything contained in any other law for the time being in force, a Minority Educational Institution may seek recognition as an affiliated college of a Scheduled University of its choice.

Right of a Minority Educational Institution to seek affiliation to a Scheduled University.

CHAPTER IV

FUNCTIONS AND POWERS OF COMMISSION

Functions of Commission.

11. Notwithstanding anything contained in any other law for the time being in force, the Commission shall—

- (a) advise the Central Government or any State Government on any question relating to the education of minorities that may be referred to it;
- (b) look into specific complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice and any dispute relating affiliation to a Scheduled University and report its findings to the Central Government for its implementation; and
- (c) to do such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Commission.

Powers of Commission.

12. (1) If any dispute arises between a minority educational institution and a Scheduled University relating to its affiliation to such University, the decision of the Commission thereon shall be final.

(2) The Commission shall, for the purposes of discharging its functions under this Act, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;
- (e) issuing commissions for the examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

Financial and administrative powers of Chairperson.

13. The Chairperson shall exercise such financial and administrative powers as may be vested in him by the rules made under this section:

Provided that the Chairperson shall have authority to delegate such of the financial and administrative powers as he may think fit to any Member or Secretary or any other officer of the Commission subject to the condition that such Member or Secretary or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairperson.

1 of 1872.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

Grants by Central Government.

14. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums of money as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

Accounts and audit.

15. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

16. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual report.

17. The Central Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission under section 11 and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before each House of Parliament.

Annual report and audil report to be laid before Parliament.

CHAPTER VI

MISCELLANEOUS

18. (1) The Central Government if deems fit may, by notification in the Official Gazette, amend the Schedule by including therein any other University or omitting therefrom any University already specified therein and on the publication of such notification, such University shall be deemed to be included in or, as the case may be, omitted from the Schedule.

Power to amend Schedule.

(2) Every notification issued under sub-section (1), shall be laid before each House of Parliament.

19. The Chairperson, Members, Secretary, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Chairperson, Members, Secretary, employees, etc., of Commission to be public servants.

45 of 1860.

20. (1) In the discharge of its functions under this Act, the Commission shall be guided by such direction on questions of policy relating to national purposes, as may be given to it by the Central Government.

Directions by Central Government.

(2) If any dispute arises between the Central Government and the Commission as to whether a question is or is not a question of policy relating to national purposes, the decision of the Central Government shall be final.

21. No suit, prosecution or other legal proceeding shall lie against the Central Government, Commission, Chairperson, Members, Secretary or any officer or other employee of the Commission for anything which is in good faith done or intended to be done under this Act.

Protection against action taken in good faith.

22. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have over-riding effect.

23. The Commission shall furnish to the Central Government such returns or other information with respect to its activities as the Central Government may, from time to time, require.

Returns or information.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) the salaries and allowances payable to, and the other terms and conditions of the service of, the Chairperson and Members under sub-section (5) of section 5 and of the Secretary, officers and other employees under sub-section (2) of section 6;
- (b) the financial and administrative powers to be exercised by the Chairperson under section 13;
- (c) the form in which the annual statement of accounts shall be prepared under sub-section (1) of section 15;
- (d) the form in, and the time at, which the annual report shall be prepared under section 16;
- (e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

25. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient, for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Repeal and saving.

26. (1) The National Commission for Minority Educational Institutions Ordinance, 2004 is hereby repealed.

Ord. 6 of 2004.

(2) Notwithstanding the repeal of the said Ordinance, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 2 (j)]

Sl. No.	Name of the University
1.	University of Delhi
2.	North-Eastern Hill University
3.	Pondicherry University
4.	Assam University
5.	Nagaland University
6.	Mizoram University.

STATEMENT OF OBJECTS AND REASONS

In one of the Sections of the National Common Minimum Programme, there is a provision to establish a Commission for Minority Educational Institutions (hereinafter referred to as the National Commission) that will provide direct affiliation for minority professional institutions to Central Universities. This long felt demand of the Minority Communities was also underscored in a series of meetings held by the Ministry of Human Resource Development with educationists, eminent citizens and community leaders associated with Minority education. Among the various issues raised by the representatives of the Minority communities was the difficulty faced by them in establishing and running their own educational institutions, despite the Constitutional guarantees accorded to them in this regard. The major problem was the issue of securing affiliation to a university of their choice. The territorial jurisdiction of the State Universities, and the concentration of minority populations in some specific areas invariably meant that the institutions could not avail the opportunity of affiliation with the universities of their choice.

2. Subsequently, in a meeting of the National Monitoring Committee for Minority Education held on August 27, 2004, similar views were voiced by many experts. Participants from the various minority communities affirmed the need to provide access to such affiliation in view of the often restrictive conditions imposed by the existing statutes of the Universities, relating to the affiliation of such institutions. They felt that these conditions affected the rights granted to them on account of their Minority status. The fact that there was no effective forum for appeal and quick redressal only aggravated the sense of deprivation of the minority communities.

3. In view of the commitment of the Government in the National Common Minimum Programme, the issue of setting up of a National Commission was a matter of utmost urgency. As the Parliament was not in session and in view of the considerable preparatory work that would be involved to make the National Commission's functioning effective on and from the next academic session, recourse was taken to create the National Commission through promulgation of the National Commission for Minority Educational Institutions Ordinance, 2004 on 11th November, 2004.

4. The salient features of the aforesaid Ordinance are as follows:—

(i) it enables the creation of a National Commission for Minority Educational Institutions;

(ii) it creates the right of a minority educational institution to seek recognition as an affiliated college to a Scheduled University, notwithstanding anything contained in any other law for the time being in force;

(iii) it allows for a forum of dispute resolution in the form of a Statutory Commission, regarding matters of affiliation between a minority educational institution and a Scheduled university and its decision shall be final and binding on the parties;

(iv) the Commission shall have the powers of a civil court while trying a suit for the purpose of discharging its functions under it, which would provide the decisions of the Commission the legal sanction necessary for such purpose; and

(v) it empowers the Central Government to amend the Schedule to add in, or omit from, any University.

5. The Bill seeks to replace the above Ordinance.

NEW DELHI;

The 26th November, 2004.

ARJUN SINGH.

Notes on clauses

Clause 1, inter alia, seeks to extend the provisions of the Bill to the whole of India except the State of Jammu and Kashmir.

Clause 2 relate to definitions of various words and expressions used in the Bill.

Clause 3 provides for the constitution of a National Commission for Minority Educational Institutions.

Clause 4 provide for the Qualification of a person for appointment as Chairperson or other Members of the National Commission for Minority Educational Institutions.

Clause 5 contains provisions for the terms of office and conditions of service of the Chairperson and Members of the National Commission for Minority Educational Institutions, their resignation, removal of a Member and filling of vacancies in the National Commission for Minority Educational Institutions.

Clause 6 provides for the appointment of Secretary and other officers and employees of the National Commission for Minority Educational Institutions.

Clause 7 provides for the salaries and allowances, etc., to be paid out of the grants referred to in clause 14.

Clause 8 provides that a mere vacancy or defect in the constitution of the National Commission for Minority Educational Institutions shall not invalidate proceedings of the Commission.

Clause 9 provides that the meeting, time and place of meeting shall be such as the Chairperson may think fit and also provide that the Commission shall regulate its own procedure.

Clause 10 provides that notwithstanding anything contained in any other law, a Minority Educational Institution may seek affiliation to a Scheduled University of its choice.

Clauses 11 and 12, respectively, specifies the functions of the National Commission for Minority Educational Institutions and the powers thereof.

Clause 13 provides that the Chairperson shall exercise such financial and administrative powers as may be vested in him by rules made thereunder which powers he may delegate to be exercised by the Member, Secretary or any other officer of the Commission.

Clause 14 seeks to empowers the Central Government to pay to the Commission, after due appropriation made by Parliament by law made in this behalf, such sums of money by way of grants as that government may think fit.

Clause 15 deals with the maintenance of proper accounts and other relevant records by the Commission and its audit by the Comptroller and Auditor-General of India.

Clauses 16 and 17 make usual provisions regarding preparation of annual report and laying the annual report before each House of Parliament.

Clause 18 empowers the Central Government to amend the Schedule to add therein or omit therefrom any University.

Clause 19 provides that the Chairperson, Members, Secretary, officers and other employees of the Commission shall be deemed to be public servants.

Clause 20 seeks to provide that the Commission shall be guided by such directions on question of policy relating to national purposes as may be given to it by the Central Government.

Clause 21 seeks to give protection to the Central Government or the Chairperson, Members, Secretary, an officer or other employee of the Commission in respect of anything done or intended to be done in good faith in pursuance of this legislation.

Clause 22 seeks to provide that the provisions of this legislation shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Clause 23 seeks to provide for the Commission to furnish such returns or other information with respect to its activities as the Central Government may require.

Clause 24 empowers the Central Government to make rules for carrying out the purposes of this Bill.

Clause 25 seeks to empower the Central Government to remove any difficulty which may arise in giving effect to the provisions of this Bill.

Clause 26 seeks to repeal the National Commission for Minority Educational Institutions Ordinance, 2004 and save the action taken under the said Ordinance.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a National Commission for Minority Educational Institutions. Clauses 6 and 7 provide for payment of salaries and allowances of the Chairperson and Members and administrative expenses, including salaries and allowances and pensions payable to the Secretary, officers and other employees from the grants made by the Central Government under sub-clause (1) of clause 14. Sub-clause (1) of clause 14 provides that the Central Government shall pay to the Commission by way of grants such sums of money as that Government may think fit for being utilised for the purposes of the legislation. Sub-clause (2) of that clause provides that the Commission may spend such sums as it thinks fit for performing its functions and the said sums shall be treated as expenditure payable out of the grants.

2. It is not possible at this stage to specify the recurring and non-recurring expenditure separately. It is, however, estimated that an annual expenditure of Rs.128.4 lakhs will be required to cover the expenses of the Commission. The recurring and non-recurring expenditure which may be incurred by the Commission is to be met out of the grants made to it by the Central Government.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 of the Bill empowers the Central Government, if it deems fit, by notification in the Official Gazette, amend the Schedule to add in, or omit from, any University. Clause 24 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The matters in respect of which such rules may be made, *inter alia*, be all or any of the matters, namely, the salaries and allowances payable to, and the other terms and conditions of the service of, the Chairperson and Members under sub-clause (5) of clause 5 and of the Secretary, officers and other employees under sub-clause (2) of clause 6; the financial and administrative powers to be exercised by the Chairperson under clause 13; the form in which the annual statement of accounts shall be prepared under sub-clause (1) of clause 15; the form in, and the time at, which the annual report shall be prepared under clause 16 and any other matter which is required to be, or may be, prescribed. The notification issued under sub-clause (1) of clause 18 and the rules made under this Bill shall be laid, as soon as possible, before each House of Parliament.

2. The power to amend the Schedule by notification or the matters in respect of which rules may be made are generally matters of procedure and administrative details and is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

3. Clause 25 of the Bill empowers the Central Government to remove by order any difficulty which may arise in giving effect to the provisions of the proposed legislation. This is by way of abundant caution and covering difficulties which is not practicable to visualise at this stage. It has, however, been provided that no such order shall be made after expiry of a period of two years from the date of commencement of this legislation. It has also been provided that a copy of every order made shall be laid before each House of Parliament.

Memorandum explaining the modifications contained in the Bill to replace the National Commission for Minority Educational Institutions Ordinance, 2004

In the National Commission for Minority Educational Institutions Bill, 2004 which seeks to repeal and replace the National Commission for Minority Educational Institutions Ordinance, 2004 it is proposed that for section 18 of the Ordinance the following clause shall be substituted in the Bill:—

“18. (1) The Central Government if deems fit may, by notification in the Official Gazette, amend the Schedule by including therein any other University or omitting therefrom any University already specified therein and on the publication of such notification, such University shall be deemed to be included in or, as the case may be, omitted from the Schedule.

(2) Every notification issued under sub-section (1), shall be laid before each House of Parliament.”.

The above substitution or modification is clarificatory in nature.

G. C. MALHOTRA,
Secretary General.